

DOWNEY BRAND LLP
MICHAEL J. THOMAS (Bar No. 172326)
APARNA RAJAGOPAL-DURBIN (Bar No. 218519)
555 Capitol Mall, Tenth Floor
Sacramento, CA 95814-4686
Telephone: (916) 444-1000
Facsimile: (916) 444-2100
E-mail: mthomas@downeybrand.com
E-mail: adurbin@downeybrand.com

Attorneys for Plaintiff
Nutrishare, Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Nutrishare, Inc., a California corporation,
Plaintiff,
v.
BioRx, LLC, an Ohio Limited Liability
Company,
Defendant.

Case No. 2:08-CV-01252-WBS-EFB

**SUPPLEMENTAL DECLARATION OF
RODNEY OKAMOTO IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

Date: August 4, 2008
Time: 2:00 p.m.
Dept: Courtroom 5

I, RODNEY OKAMOTO, hereby declare as follows:

1. I am an individual residing in Galt, California. I make this declaration of my own personal knowledge, and if called to testify, could and would testify consistent with the facts stated herein.

2. I am co-founder and President of Plaintiff in this action, Nutrishare, Inc.

3. The Accreditation Commission for Healthcare, Inc. (ACHC) is one of the primary national organizations that accredits in-home healthcare providers, including providers of total parenteral nutrition (hereinafter "TPN"). Attached as Exhibit A is a true and correct copy of a message from the President of the ACHC, Thomas E. Cesar, describing the purpose of the ACHC.

4. Although Defendant BioRx, LLC, is accredited by the ACHC, its in-home TPN

1 division, NutriThrive, is not accredited. On Wednesday, July 2, 2008, I spoke with Mr. Cesar to
2 discuss my concerns that NutriThrive is misleading the public by saying it is accredited by the
3 ACHC, when it is not accredited, and he assured me that the matter is being investigated by the
4 ACHC. Mr. Cesar also told me that, in his opinion as president of the leading organization that
5 licenses in-home healthcare providers, it is dangerous and not in the best interests of the public
6 for BioRx to continue to use the "NutriThrive" name, given Nutrishare's similar name and nearly
7 identical therapeutic specialty, because it is likely to confuse the public. According to Mr. Cesar,
8 the ACHC's Director of Accreditation, Sherry Hedrick, shares this opinion.

9 I declare under penalty of perjury under the laws of the United States and the State of
10 California that the foregoing is true and correct to the best of my knowledge.

11 Dated this 8th day of July, 2008, at Galt, California.

12 
13
14 RODNEY OKAMOTO
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Medicare Deeming Authority for Home Health and DMEPOS An ISO 9001:2000
Certified Company Inc. 5000 Honoree

[Home](#) [Contact Us](#) [Why ACHC?](#) [Order a Manual](#) [Customer Central Login](#)

Username:

Password:

[Login](#)

[ACCREDITATION](#) [NEWS ROOM](#) [GENERAL PUBLIC](#) [RESOURCES](#) [3RD PARTY PAYORS](#) [SPONSORSHIP](#) [ABOUT US](#) [E-NEWS SIGNUP](#)

President's Message



Thomas E. Cesar
President

I am pleased to welcome you to the Accreditation Commission for Health Care, Inc.(ACHC) World Wide Web site. ACHC is one of the few standard-setting accrediting bodies for home care and alternate site organizations in the country. We offer accrediting programs developed by providers for providers that reflect criteria that are conducive to providing quality care. ACHC is a not-for-profit organization that has been a symbol of quality since 1986.

Utilizing experienced healthcare leaders, we offer accreditation services to a variety of community-based organizations. Our process measures the performance of an organization from its administration to its service delivery. Achieving accreditation testifies that an organization sufficiently complies with ACHC standards.

ACHC is certified to ISO 9001:2000 by [DNV](#). ISO is an internationally recognized standard for quality. Driven by commitment to excellence in the delivery of best customer services in accreditation, ACHC became the first national healthcare accreditor in the U.S. and in the world to obtain this mark of distinction. We appreciate your interest in our company.

Thomas E. Cesar



“ Our experiences with the ACHC accreditation process have been positive. The effort put forth by the ACHC staff is perceptible as they use the survey process as a tool to help our company become even better.”

Home MediService, Inc; Havre de Grace, MD

© Accreditation Commission for Health Care, Inc. 2008

Web site Issues? [webmaster @ achc.org](mailto:webmaster@achc.org)